



U.S. Department of Justice

Environment and Natural Resources Division

DJ#90-11-3-945

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March 24, 1999

VIA U.S. MAIL

Ronald N. Schultz  
Legal Director - ~~CITY HALL BUILDING~~  
Department of Law, City of Rockford, IL  
425 E. State Street  
Rockford, Illinois 61104

Phone → (815) 987-5540 FAX: (815) 967-6949

Elizabeth Wallace  
Assistant Attorney General  
State of Illinois  
100 W. Randolph Street, 11<sup>th</sup> Floor  
Chicago, Illinois 60601

Re: United States and State of Illinois v. City of Rockford, Illinois, Civil Action No. 98C50026 (N.D. Ill.)-- Filing of Motion for Disbursement of Funds from Registry Account and Waiver of Court Registry Fees and Accompanying Documents.

Dear Counsel:

Enclosed are copies of the following documents sent to the Assistant United States Attorney for the Northern District of Illinois, Western Division, for filing with the Clerk of Court in the above-referenced action:

- 1) Notice of Motion;
- 2) United States' Motion for Disbursement of Funds from Registry Account and Application for Waiver of Court Registry Fees;
- 3) Memorandum in Support of United States' Motion for Disbursement of Funds from Registry Account and Application for Waiver of Court Registry Fees;
- 4) Proposed Order; and
- 5) Certificate of Service.

If there are any questions regarding the enclosures, please do not hesitate to contact me.

Sincerely,

Lois J. Schiffer  
Assistant Attorney General

Environment and Natural Resources  
Division

By:

*Francis J. Buros*

Francis J. Buros  
Trial Attorney

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

UNITED STATES OF AMERICA and  
PEOPLE OF THE STATE OF ILLINOIS,

Plaintiffs,

v.

CITY OF ROCKFORD, ILLINOIS,

Defendant.

CIVIL ACTION  
NO. 98C50026

Judge Reinhard

**NOTICE OF MOTION**

TO: SEE ATTACHED CERTIFICATE OF SERVICE LIST

PLEASE TAKE NOTICE that on April 7, 1999, at 9:00 AM, or as soon thereafter as counsel may be heard, I will appear before United States District Judge Philip G. Reinhard in the courtroom usually occupied by him in the United States Courthouse, 211 South Court Street, Rockford, Illinois, or before such other judge who may be sitting in his place and stead, and then and there present:

**UNITED STATES' MOTION FOR DISBURSEMENT OF FUNDS FROM REGISTRY  
ACCOUNT AND APPLICATION FOR WAIVER OF COURT REGISTRY FEES**

at which time and place you may appear if you see fit.

Respectfully submitted,

SCOTT R. LASSAR  
United States Attorney

KEITH C. SYFERT  
Assistant United States Attorney  
308 West State Street, Room 300  
Rockford, Illinois 61101  
Telephone: 815-987-4444

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

UNITED STATES OF AMERICA and  
PEOPLE OF THE STATE OF ILLINOIS,

Plaintiffs,

v.

CITY OF ROCKFORD, ILLINOIS,

Defendant.

CIVIL ACTION  
NO. 98C50026

Judge Reinhard

**UNITED STATES' MOTION FOR DISBURSEMENT OF FUNDS FROM REGISTRY  
ACCOUNT AND APPLICATION FOR WAIVER OF COURT REGISTRY FEES**

Plaintiff, the United States of America, by and through its undersigned counsel, respectfully moves this Court to grant an Order directing the Clerk of Court to disburse funds, including accrued interest, in the Registry Account of the Court and waive the fee taxed as a cost of the Court under 28 U.S.C. §§ 1914 and 1920, pursuant to the Notice of the Administrative Office of the United States Courts at 56 Fed. Reg. 56356 (November 4, 1991). The funds were deposited in the Court Registry Account by the City of Rockford, Illinois pursuant to terms of the Amended Consent Decree entered by the Court on January 13, 1999, and the Order of the Court establishing the Registry Account entered on September 30, 1998. The Amended Consent Decree addresses certain matters regarding the Southeast Rockford Groundwater Contamination Superfund Site in Rockford, Illinois.

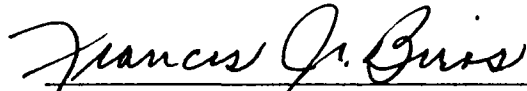
Plaintiff requests that the funds, including accrued interest, and waived fees, be paid to the United States and the

State of Illinois as required by the Amended Consent Decree, and in accordance with instructions in the attached Memorandum in Support of United States' Motion for Disbursement of Funds from Registry Account and Application for Waiver of Court Registry Fees. Also attached is a proposed Order.

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA:

LOIS J. SCHIFFER  
Assistant Attorney General  
Environment and Natural Resources  
Division  
U.S. Department of Justice  
Washington, D.C. 20530



FRANCIS J. BARROS  
MARY REED  
Environmental Enforcement Section  
Environment and Natural Resources  
Division  
U.S. Department of Justice  
Washington, D.C. 20530

KEITH C. SYFERT  
Assistant United States Attorney  
Northern District of Illinois  
308 West State Street  
Room 300  
Rockford, IL 61101

OF COUNSEL:

TOM TURNER  
Assistant Regional Counsel  
U.S. Environmental Protection  
Agency  
Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

UNITED STATES OF AMERICA and	)	
PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Plaintiffs,	)	
	)	CIVIL ACTION
v.	)	NO. 98C50026
	)	
CITY OF ROCKFORD, ILLINOIS,	)	Judge Reinhard
	)	
Defendant.	)	

**MEMORANDUM IN SUPPORT OF UNITED STATES'  
MOTION FOR DISBURSEMENT OF FUNDS FROM REGISTRY  
ACCOUNT AND APPLICATION FOR WAIVER OF COURT REGISTRY FEES**

Plaintiff, United States of America, on behalf of the United States Environmental Protection Agency ("EPA"), respectfully requests that the Court grant an Order directing the Clerk of Court to disburse funds, including accrued interest, as set forth herein, deposited in the Court Registry Account, by the City of Rockford, Illinois (the "City") as required by the provisions of the Amended Consent Decree (the "Decree") in this action.

Plaintiff requests further that the Court grant an Order waiving the fees taxed by the Clerk of Court for the custody and investment of the funds that have been deposited since the United States Government is a party to this action. In support of this Motion and Application, Plaintiff states as follows:

1. The United States and the State of Illinois (the "State") entered into the Decree with the City pursuant to

Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), and Section 7003 of RCRA, 42 U.S.C. § 6973, and Section 22.2 of the Illinois Environmental Protection Act in connection with the Southeast Rockford Groundwater Contamination Superfund Site (the "Site").

2. The Court entered the Consent Decree among the United States, the State and the City on January 13, 1999.

3. Pursuant to the Court's Order authorizing establishment of a Court Registry Account in this action entered on September 30, 1998, the City deposited the total amount of \$11,762,962.22 in the Registry of the Court as required by the terms of Paragraph 8 of the Decree. This amount was paid in two installments of \$11,589,814.11 on September 30, 1998, and \$173,148.11 on October 19, 1998.

4. The Decree provides that within 30 days of the entry of the Consent Decree, the Clerk of Court shall transmit funds deposited by the City in the Court's Registry Account to the United States.

5. This Motion requests that the Court authorize the Clerk of Court to pay the amount of \$11,556,962.22, plus 98.25% of accrued interest, to the EPA Hazardous Substances Superfund by FedWire Electronic Funds Transfer ("EFT" or wire transfer) to the U.S. Department of Justice account in accordance with instructions for current electronic funds transfer procedures provided to the Clerk by the Financial Litigation Unit of the United States Attorney's Office for the Northern District of

Illinois. The Decree also provides, and the United States further requests, that the Clerk of Court send notice that such payment has been made to the United States as specified in Section XI (Notices and Submissions) of the Decree.

6. The Decree provides further that within 30 days of entry of the Consent Decree, the City shall pay to the State the amount of \$206,000. The City included this amount in the deposits to the Registry Account referenced in Paragraph 2, above. This Motion, therefore, requests that the Court authorize the Clerk of Court to pay the amount of \$206,000, plus 1.75% of accrued interest, to the State, in the form of a certified check made payable to the Treasurer of the State of Illinois, designated to the Hazardous Waste Fund, to the Illinois Environmental Protection Agency, Fiscal Services Section, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, IL 62702. The name and number of this case and the City's Federal Employer Identification Number: 36-6006082, should appear on the face of the check. Plaintiff requests that the Clerk send a copy of the check and transmittal letter to the State as specified in Section XI (Notices and Submissions) of the Decree.

7. Pursuant to the Notice issued by the Administrative Office of United States Courts at 56 Fed. Reg. 56356 (November 4, 1991), the United States may apply for restoration of the fees (ten percent of interest accrued on the funds) taxed as costs by the Court pursuant to 28 U.S.C. §§ 1914 and 1920, by filing an application with the Court, in cases where the United States




Government is a party to the action underlying the Registry investment. Pursuant to this Motion, the United States requests the waiver of such fee in this matter.

WHEREFORE the United States requests that this Court enter the proposed Order directing the Clerk of Court to disburse the funds in the Registry Account, including accrued interest, and waive the ten percent of accrued interest Court Registry fee. The United States requests further that payments by the Clerk of Court be made in accordance with terms of the Decree and pursuant to instructions set forth in this Motion. A proposed Order is attached.

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA:

LOIS J. SCHIFFER  
Assistant Attorney General  
Environment and Natural Resources  
Division  
U.S. Department of Justice  
Washington, D.C. 20530

  
FRANCIS J. BIROS

MARY REED  
Environmental Enforcement Section  
Environment and Natural Resources  
Division  
U.S. Department of Justice  
Washington, D.C. 20530

KEITH C. SYFERT  
Assistant United States Attorney  
Northern District of Illinois  
308 West State Street  
Room 300  
Rockford, IL 61101

OF COUNSEL:

TOM TURNER  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

UNITED STATES OF AMERICA and	)	
PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	CIVIL ACTION
	)	NO. 98C50026
	)	
CITY OF ROCKFORD, ILLINOIS,	)	Judge Reinhard
	)	
Defendant.	)	

ORDER

Upon Motion and Application of the United States for an Order directing the Clerk of Court to: (1) disburse funds deposited in the Court Registry Account by the City of Rockford, Illinois pursuant to terms of the Amended Consent Decree entered by the Court on January 13, 1999, and the Order of the Court establishing the Registry Account entered on September 30, 1998; and (2) to waive fees, pursuant to 56 Fed. Reg. 56356 (November 4, 1991), taxed as a cost of the Court under 28 U.S.C. §§ 1914 and 1920; and the Court being duly advised in the premises, it is hereby,

**ORDERED** that the Clerk of the Court disburse funds in the amount of \$11,556,962.22, deposited in the Court Registry Account, plus 98.25% of accrued interest, to the United States Department of Justice in accordance with instructions to be provided to the Clerk of Court by the Financial Litigation Unit

of the Office of the United States Attorney for the Northern District of Illinois. It is further,

**ORDERED** that the Clerk of Court disburse funds in the amount of \$206,000, plus 1.75% of accrued interest, held in the Registry Account to the State of Illinois in accordance with payment instructions in the United States' Motion and Application. It is further,

**ORDERED** that the Clerk of Court waive the 10% of interest fee taxed by the Court for the custody and investment of funds deposited by the City of Rockford, Illinois under the provisions of the Amended Consent Decree in this action. It is further,

**ORDERED** that the Clerk of Court provide the notices required under the Section XI (Notices and Submissions) of the Amended Consent Decree to the United States and the State of Illinois.

Entered this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

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United States District Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

UNITED STATES OF AMERICA and	)	
PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	CIVIL ACTION
	)	NO. 98C50026
	)	
CITY OF ROCKFORD, ILLINOIS,	)	Judge Reinhard
	)	
Defendant.	)	
	)	

CERTIFICATE OF SERVICE

I certify that on March 24<sup>th</sup>, 1999, I caused a copy of the following documents to be forwarded to counsel for the City of Rockford, Illinois and the State of Illinois at the addresses set forth below, by first class U.S. mail, by depositing same with personnel in the U.S. Department of Justice mailroom:

- 1) Notice of Motion;
- 2) United States' Motion for Disbursement of Funds from Registry Account and Application for Waiver of Court Registry Fees;
- 3) Memorandum in Support of United States' Motion for Disbursement of Funds from Registry Account and Application for Waiver of Court Registry Fees;
- 4) Proposed Order; and
- 5) This Certificate of Service.

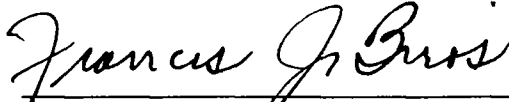
For the City of Rockford, Illinois:

Ronald N. Schultz  
Legal Director  
Department of Law, City of Rockford, IL

425 E. State Street  
Rockford, Illinois 61104

For the State of Illinois:

Elizabeth Wallace  
Assistant Attorney General  
State of Illinois  
100 W. Randolph Street, 11<sup>th</sup> Floor  
Chicago, Illinois 60601



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